



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor	: Lon S. Weiner et al.	
Appln. No.	: 10/699,313	
Filed	: October 30, 2003	Group Art Unit: 3743
Title	: METHOD OF FRACTURE FIXATION (as amended)	Examiner: Araj, Michael
Docket No.	: M913.12-9	

**RESPONSE**

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

EXPRESS MAIL NO. EQ 988364183 US

Sir:

This is in response to the Office Action mailed June 30, 2006. The application containing claims 21-40 is in condition for initial examination, and reconsideration and initial examination is respectfully requested.

The June 30, 2006 Office Action purported to examine claims 1-20 of the application. However, claims 1-20 of the application were canceled by a Preliminary Amendment filed with the application papers on October 30, 2003, in favor of new claims 21-40. The June 30, 2006 Office Action erroneously failed to consider Applicant's Preliminary Amendment.

Upon receiving the June 30, 2006 and discovering the erroneous examination of the wrong claim set, the undersigned phoned Examiner Davis of the United States Patent and Trademark Office, leaving at least one telephone message. On or about July 20, 2006, Examiner Davis returned the phone messages of the undersigned. Examiner Davis agreed with the undersigned that Examiner Davis had erroneously failed to consider Applicant's Preliminary Amendment, and had examined the wrong claims. Examiner Davis stated that Applicant need not respond to the June 30, 2006 Office Action, and that Examiner Davis would issue an Interview Summary and a Replacement Office Action in the near future.

No Interview Summary or Replacement Office Action was received, and Examiner Davis apparently left his position as Examiner at the Patent Office. A review of PAIR records indicated that the application was reassigned to Examiner Michael Araj. Beginning in about October, 2006, the undersigned left several telephone messages every two or three weeks with Examiner Araj